

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

J U D G M E N T

State of Rajasthan Vs. Manbhir Singh & anr.

S.B.CRIMINAL APPEAL NO.321/1988
against the judgment dt.26.11.87 passed by
Addl.Sessions Judge No.1, Sri Ganganagar,
Camp at Srikanpur in Sessions Case No.52/1985.

Date of Judgment: Nov.20, 2007

P R E S E N T

HON'BLE MR.JUSTICE DEO NARAYAN THANVI

Mr.J.P.S.Choudhary, Public Prosecutor.
Mr.S.G.Ojha, for respondents.

BY THE COURT:

1. This appeal is directed against the judgment of the learned Additional Sessions Judge No.1, Sri Ganganagar, Camp at Srikanpur dated 26.11.1987, whereby accused respondents Manbhir Singh and Smt.Sukhvinder Kaur were acquitted for the offences under Sections 306 and 498A IPC.

2. The prosecution story in brief is that one Satveer Kaur was married with respondent No.1 Manbhir Singh, who is son of respondent No.2 Sukhvinder Kaur, eight years back and got one son after two daughters, eight months prior to the incident. It is stated that fifteen days after the birth of son, accused respondents started making demand of Rs.30,000/- as "Chhuchhak" (Social custom), which the father of deceased was unable to meet out. Upon this, the respondents started torturing her and committed cruelty with her, which resulted into the suicide by deceased Satveer Kaur. The Deputy Superintendent of Police, Karanpur registered a report under Section 174 CrPC and F.I.R. by the father of deceased viz; Mahendra Singh was also lodged on the same day at the Police Station, Karanpur. The police registered a case and after investigation, filed challan against the accused under Sec.306 IPC read with Section 34 IPC before the Judicial Magistrate, Karanpur, who committed the case to the Court of Sessions. The charges were framed against the accused and during the course of trial, additional charge under Section 498A IPC was also added. Both the accused respondents pleaded not guilty to the charge. The prosecution examined eleven witnesses. The statement of accused respondents under section 313 CrPC was recorded and they produced one Bhupendra Kumar in their defence. After hearing the arguments, learned Additional Sessions Judge disbelieved

the prosecution story and acquitted the accused respondents against which this appeal has been filed.

3. I have heard learned Public Prosecutor and learned counsel for the accused respondents.

4. The sole ground on the basis of which the learned Public Prosecutor has assailed the judgment of the learned trial Court, is the testimony of Buta Singh (P.W.5), who has categorically stated that after fifteen days of giving birth to a son by deceased Satveer Kaur, the accused respondents started demanding Rs.30,000/- from the deceased. He has stated that her sister deceased Satveer Kaur came to the parental house and started weeping for making arrangement of the demand of Rs.30,000/- from her husband and mother-in-law. He has also stated that 10 to 12 days prior to the incident of suicide, his father went to Karanpur with Panchayat but the accused respondents started fighting and turned them out of their house. Thereafter on 3.8.1985, he came to know that her sister died on account of taking poisonous medicine. Learned trial Judge disbelieved the statement of this witness on the basis of the statement given by Mahendra Singh (P.W.4), who is father of deceased Satveer Kaur. Though the evidence of Mahendra Singh (PW 4) and Buta Singh (PW 5) is corroborative but both these witnesses have said

that when this demand was made, they called the Panchayat of respectable inhabitants. Not a single witness of the Panchayat has been produced during trial. He has named Modan Singh, Jarnail Singh and Khem Singh, in addition to grand father of respondent Manbhir Singh viz; Inder Singh. Jarnail Singh and Khem Singh have not been produced. Modan Singh has been produced as PW 6, who is maternal uncle of deceased. Though, he has stated about the Panchayat being called in his statement but when the F.I.R. was given, his name was not mentioned as a member of the Panchayat with regard to demand of "Chhuchhak".

5. The finding of the learned trial Court that the F.I.R. was filed on 3.8.1985 is also doubtful, finds favour from the F.I.R. Ex.P.11 & Ex.P.12, which have been registered at the Police Station on 6.8.1985. This shows that the typed F.I.R. Ex.P.3 which is dated 3.8.1985 has been typed later on and has been made after due deliberation, which is established from the evidence of Dev Kishan, S.H.O.(PW 9), who has said that F.I.R. Ex.P.3 was neither filed before him nor it was sent by the C.O. to him. Mahendra Singh (PW 4) has further stated in his version that his daughter told about the demand of Rs.30,000/- as "Chhuchhak" but this fact has also not been stated in the F.I.R. Ex.P.3 that this demand was made in the private hospital.

6. The sole ground of cruelty is about the demand of Rs.30,000/- as "Chhuchhak" but except these relative witnesses, who are brother and father of deceased, no other independent witness supported the prosecution story. The most important witness would have been Nakshatra Singh (PW 2), who is a neighbourer but he has denied anything about the cruelty or demand. On the contrary, this witness has said that 17 to 18 days prior to the death of deceased Satveer Kaur, the child fell down from her hands and he received head injury. On account of this, husband of deceased Manbhir Singh, who is accused respondent in this case, ofcourse told his wife that due to her negligence, had the child died, his entire family would have ruined. This witness has also told that when deceased Satveer Kaur took poisonous spray, the respondent took her to the hospital on motorcycle and tried to save her life. The finding of the learned trial Judge considering all these factors, leads to the conclusion that deceased Satveer Kaur was neither subjected to cruelty nor there was any demand of "Chhuchhak". On the contrary, she died at her own by consuming poisonous liquid on account of incident of her negligence while the child fell down from her hands.

7. Consequently, this State Appeal is dismissed and the judgment passed by learned Additional Sessions Judge No.1, Sri Ganganagar, Camp at Srikanpur dated 26.11.1987 acquitting accused respondents Manbhir Singh and Smt.Sukhvinder Kaur for the offences under Sections 306 and 498A IPC is confirmed. The accused respondents are on bail. Their bail bonds stand cancelled.

(DEO NARAYAN THANVI), J.

RANKAWAT JK, PS